

[illegible]

www.CapitalReportingCompany.com
(866) 448-DEPO

[illegible]

[illegible]

1 right?

2 A. No, it does not.

3 Q. Okay. And then just to rope in
4 another topic here. You've got Topic 19, which
5 again is -- give you the short version, sort of
6 the analysis used prior to making a layoff
7 decision.

8 So with regard to, you know, these
9 layoff topics, I want to cut to the chase here.
10 I mean, is there a formula that -- by which
11 Murray Energy Corporation, you know, makes a
12 decision to lay people off? Is it a financial
13 -- you know, is it a million dollars in
14 permanent loss, or how does it work?

15 A. So we have an integrated financial
16 planning model. It's a financial model
17 spreadsheet based -- it's very complex. We
18 forecast the projections of our mines. That
19 will give us the number of tons that we'll
20 produce and so on. We forecast what we believe
21 our sales forecast to be, either by contract or
22 what we think we can or cannot sell by
23 contract. It will be referred to as spot sales
24 or shorter terms sales, and then we input a
25 bunch of assumptions, much of it based on

1 history.

2 So supply cost would go back last
3 12 months. Things that are pretty routine
4 would be entered into this financial planning
5 model, and then when we look at the output of
6 the mines, meaning the productivity, that
7 requires a certain headcount to operate those
8 temps.

9 In other words, they can't mine --
10 say it's 6,000,000 tons with half as many guys
11 it takes the number of guys that it takes to
12 run those pieces of equipment in this area of
13 the mine.

14 And then we run all that together,
15 and we see how it comes out. And we run those
16 iterations very frequently. And as the market
17 goes south, we run them even more frequently.

18 Q. That sounds pretty complicated.
19 Has any of this information been provided to
20 the government in any form?

21 A. It will be represented -- the Board
22 book would have a summary of those financial
23 planning model, so that would be an aggregate
24 view of what some of those models would result
25 -- I should say the result of those financial

1 planning models would be in that book. Sorry.

2 I'm a little tired.

3 And we have our annual budgets that
4 would also be the results of those financial
5 planning models, and those could change from
6 time to time. We put together our best
7 forecast for the next ten years, each year.
8 That's what we refer to as an annual budget,
9 and then we update that through that year.

10 Q. I might not have been clear.

11 Has any of the information that
12 you've described in the integrated financial
13 planning model been provided to the U.S.
14 government?

15 A. If -- okay. If it was through
16 discovery that you have a copy of a Board book
17 or something like that, then you would have the
18 outputs of that model.

19 Q. It's my fault; I'm still not being
20 clear.

21 Outside of the bounds of this
22 litigation, has any of the information in the
23 information in the integrated financial
24 planning model been provided to the U.S.
25 government?

1 A. I don't believe so.

2 Q. Okay. So --

3 A. I mean, we gave them our models.

4 Q. Sure.

5 A. Yeah. I don't think so.

6 Q. Okay. So --

7 A. That's not something you would --
8 spread around publicly, you know.

9 Q. Understandable. Has any of that
10 information been provided to EPA?

11 A. You know, I don't -- in the
12 comments to EPA on basic regulations, there may
13 be references to some of the assumptions in
14 those models. I'm not certain about that.
15 Several thousand pages of comments on various
16 aspects of proposed rule-making legislation, so
17 there might be a reference to that; but other
18 than that, I don't know of any.

19 Q. Okay. And it's your position that
20 with regard to this litigation -- for example,
21 I think you mentioned the Board book would have
22 an aggregate summary of what's in the
23 integrated --

24 A. It would have an update at the
25 time, so, for instance, this was November of

1 can't speak to Mr. Cline's personal finances.

2 Q. What would be the effect on Murray
3 Energy Corporation if Foresight went bankrupt,
4 financially speaking?

5 A. It could potentially drag Murray
6 Energy into bankruptcy.

7 Q. Has Murray Energy already indicated
8 that the debt undertaken to purchase stake in
9 Foresight is a permanent loss in its annual
10 reports?

11 A. I don't know how to respond to the
12 question, "permanent loss."

13 Q. Are you familiar with the 2015
14 Murray Energy Corporation annual report, sir?

15 A. Yes.

16 Q. Mr. Murray, I'm going to hand you
17 what -- I'm going to hand you what we're going
18 to mark as Murray Energy Corporation 35.

19 A. Okay.

20 Q. Which is the Murray Energy annual
21 report for 2015. Murray Energy Corporation.
22 I'm handing a copy to the court reporter to be
23 marked. I'm handing a copy to your counsel.
24 We're not going to go through the whole thing.
25 I just want to ask two or three really specific

1 Q. Uh-huh.

2 A. I can't remember what they -- what
3 the structure was or if there was any
4 additions.

5 Q. Is it your position that a -- the
6 \$1,000,000,000 listed as a hundred -- more than
7 \$1,000,000,000 listed as other than temporary
8 losses on this document will not have any
9 effect on Murray's ability to maintain its
10 employees?

11 A. Certainly. If it is an actual loss
12 of 1.1.4 billion or 1.23 billion, that would
13 have an effect on the business if it is a
14 permanent loss.

15 We've talked about the impairment
16 loss and then the equity losses from
17 affiliates, so it -- if the question is
18 pertaining to the numbers we're citing here, I
19 don't know that we're talking the same
20 terminology; but if you're asking me if the
21 company lost \$1.3 billion or \$1.4 billion,
22 would that have an effect on the business, the
23 answer is absolutely.

24 Q. Okay. Let's rephrase it.

25 If Murray Energy is unable to

1 recoup the 1. -- well, the money it borrowed to
2 pay to purchase an interest in Foresight, what
3 will the effect on Murray Energy Corporation
4 business be?

5 MR. LAZZARETTI: Objection; vague.

6 A. Well, if we're in default of our
7 business, then we would have a bankrupt
8 situation, most likely.

9 Q. Would you potentially have to close
10 all your mines, then?

11 A. It could potentially happen. It
12 could have to be a restructuring of our debt
13 and a restructuring of our business.

14 Q. Would you potentially have to lay
15 off all your employees?

16 A. You know, there's a possibility
17 that layoffs would take place, yes. To say all
18 of them, I can't speak to all, but the
19 restructuring of the business would result in
20 -- likely result in displacing of employees.

21 Q. Did President Obama force Murray
22 Energy Corporation to enter into the
23 transaction with Foresight?

24 A. No.

25 Q. Did EPA force Murray Energy

1 extent it calls for disclosure of
2 attorney-client communications and attorney
3 work product, I'm instructing the witness not
4 to answer. To the extent you can respond
5 without disclosing attorney work product or
6 attorney-client communications, you may do so.

7 A. Documents provided to me by counsel
8 that were collected by, I believe, the EPA.

9 Q. Okay. Is it Murray Energy
10 Corporation's position that the administrator
11 has failed to comply with Section 321 (a)?

12 A. Yes.

13 Q. And we've talked a little bit about
14 it before today. You're aware of the
15 regulatory impact analysis conducted by EPA, at
16 least for the Clean Power Plan; is that
17 correct?

18 A. Yes. Vaguely, yes.

19 Q. Okay.

20 A. I've looked at it and it's been
21 some time.

22 Q. If the Court were to order EPA to
23 undertake the evaluations described in Section
24 321 as plaintiffs have requested here, would
25 that have any effect on Murray Energy's

1 finances?

2 A. Yes.

3 Q. What would the effect be?

4 A. It would have an effect on our
5 markets. It would have an effect on our
6 lenders, when the government is putting out
7 statements on -- requests on jobs in certain
8 communities or in industries in general, that
9 would affect our lending, our ability to sell
10 coal, our ability for our customers to burn
11 coal, the ability for us to forecast our
12 business, and also it doesn't provide
13 communication to our employees of what their
14 own government's regulations mean for their
15 futures and families.

16 Q. And it's your -- it's Murray Energy
17 Corporation's position that the regulatory
18 impact analyses did not provide that
19 information already?

20 A. That's correct.

21 Q. Okay. And the information that you
22 want to see -- and I'm not trying to
23 mischaracterize your testimony, so correct me
24 if I'm wrong. You wanted to be able to look at
25 the RA for the Clean Power Plan and tell a coal

1 miner in West Virginia whether he or she would
2 lose their job?

3 MR. LAZZARETTI: Objection. You
4 may answer.

5 A. Yeah, to the extent that it's
6 possible, yes.

7 Q. Okay.

8 A. To look at the ramifications of the
9 proposed regulations on the coal regional's
10 business on regions in the United States and
11 specific businesses in those regions.

12 Q. And the decision of whether a
13 layoff would occur at, for example, the Coal
14 mines in West Virginia where Murray Energy
15 Corporation is based in part on the integrated
16 financial planning analysis, right?

17 A. It's based on market conditions and
18 how our finances relate to what the market
19 could compare.

20 Q. And none of the information in the
21 integrated financial planning analysis
22 conducted by Murray Energy Corporation for its
23 mines in West Virginia has been provided to
24 EPA; is that correct?

25 A. That's correct. I don't think

1 anything has been provided to EPA.

2 Q. How are you expecting to know
3 whether Murray Energy Corporation would decide
4 to lay off coal miners based on its regulations
5 without that information?

6 A. Well, they have to have an idea,
7 according to the Clean Air Act, to take -- they
8 would have to look at a jobs analysis and
9 determine what type of impact would happen to
10 the coal industry as a whole, and you could
11 estimate that based on what's required in the
12 Clean Power Plan, those regulations would
13 eliminate coal-fired power plants to a certain
14 degree, and you could make estimations --
15 almost very detailed estimations on the impacts
16 to coal suppliers and corrective utilities.

17 Q. Does the Clean Power Plan
18 regulatory impact analysis indicate that there
19 will be a reduction in the number of power
20 plants operating in the United States?

21 A. I can't recall what it says.

22 Q. Are you an economist, sir?

23 A. I'm not an economist.

24 Q. Okay. Have you ever done an
25 economic analysis of job losses related to a

1 And I don't know what to tell them.

2 They -- the Clean Air Act says it
3 needs to be done. It's not done. We filed
4 suit. The court say that it needs to be done.
5 I use that information in communication with my
6 employees. This is what the federal government
7 is doing. This is what this elected official
8 is proposing. Here's what it means to your
9 community.

10 Q. Do you use the information in any
11 other way?

12 A. Here's what it means to our
13 business and to our markets.

14 Q. Anything else?

15 A. Well, I think it's the reason the
16 government is going to do. If they're going to
17 destroy an entire industry. That's not how I
18 would view it, but it seems like common sense.

19 Q. Again, it's your position that
20 you're aware of the regulatory impact analysis
21 conducted for the Clean Power Plan, but it's
22 not sufficient; is that correct?

23 A. That's correct.

24 Q. I think we can go off the record to
25 see if we're done. Does that make sense?